

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

| | | |
|------------------------------------|---|----------------------------|
| TCF NATIONAL BANK, |) | Civ. No. 4:10-cv-04149-LLP |
| |) | |
| <i>Plaintiff,</i> |) | MOTION FOR PERMISSION |
| |) | TO FILE AMICUS BRIEF |
| v. |) | IN SUPPORT OF DEFENDANTS |
| |) | BY RETAIL LITIGATION |
| BEN S. BERNANKE, JANET L. YELLEN, |) | CENTER, INC. |
| KEVIN M. WARSH, ELIZABETH A. DUKE, |) | |
| DANIEL K. TARULLO, |) | |
| SARAH BLOOM RASKIN, |) | |
| AND JOHN WALSH, |) | |
| <i>Defendants.</i> |) | |
| |) | |

COMES NOW the Retail Litigation Center, Inc. (“RLC”), which pursuant to Federal Rule of Civil Procedure 7(b) and Local Rule 7.1, and also pursuant to this Court’s Order of December 10, 2010 (Dkt. No. 47), move for permission to file an amicus brief in support of defendants in the above-captioned case.

In support of this motion, the proposed amicus curiae states as follows:

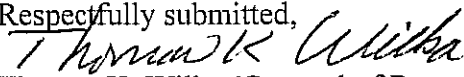
1. The Retail Litigation Center, incorporated in Virginia, is a public policy organization that identifies and engages in legal proceedings that affect the retail industry. The RLC, whose members include some of the country's largest retailers, was formed to provide courts with retail industry perspectives on significant legal issues, and to highlight the potential industry-wide consequences of legal principles that may be determined in pending cases.
2. The proposed amicus seek to submit a brief in support of defendants, who oppose TCF's constitutional challenge to the Durbin Amendment to the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203. Specifically, the brief will (1) discuss the history of the debit card market; (2) oppose TCF's claim that the Durbin Amendment violates the Fifth Amendment's prohibition on uncompensated takings; and (3) discuss severability of any

unconstitutional provisions of the Durbin Amendment. The RLC seeks to submit this brief because of the great public significance that the Durbin Amendment, and this litigation, have for retailers across the country, including member of the RLC, whose customers use debit cards to pay for goods and services they purchase.

3. Counsel for the parties in this action do not object to the filing of the proposed amicus brief.

Dated this 4th day of March, 2011.

Respectfully submitted,



Thomas K. Wilka (Counsel of Record)

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Attorneys for Retail Litigation Center

CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2011, a copy of the Retail Litigation Center's foregoing motion was filed electronically via the Court's ECF system, which sent notification of such filing to counsel of record.

/s/ Thomas K. Wilka

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